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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
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11 GONZALO ALARCON,

12 Petitioner,

13 v.

14 FIDENCIO GUZMAN,

15 Respondent.  
16

Case No. 2:24-cv-06108-AB (JC)

**ORDER ACCEPTING REPORT AND  
RECOMMENDATION OF UNITED  
STATES MAGISTRATE JUDGE**

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18 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition for Writ of  
19 Habeas Corpus (“Petition”), the parties’ submissions in connection with  
20 Respondent’s Motion to Dismiss the Petition (“Motion to Dismiss”) and  
21 Petitioner’s Motion in Request of Stay and Abeyance (“Motion for Stay”), and all  
22 of the records herein, including the May 27, 2025 Report and Recommendation of  
23 United States Magistrate Judge (“Report and Recommendation”). The Court has  
24 engaged in a *de novo* review of those portions of the Report to which objections  
25 have been made.

26 The Report recommends the dismissal of the Petition because it raises claims  
27 that are not cognizable in federal habeas actions. (Dkt. No. 24.) Petitioner’s  
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1 objections to the Report (Dkt. No. 28) do not merit any change to the Report's  
2 findings or recommendations.

3 Petitioner objects that his appellate counsel was ineffective during his  
4 resentencing proceeding in state court. (Dkt. No. 28 at 4.) As the Report found,  
5 however, this claim is not cognizable on federal habeas review because Petitioner  
6 had no constitutional right to counsel in such a proceeding. (Dkt. No. 24 (citing  
7 cases).) Petitioner fails to raise any persuasive argument to the contrary.

8 Petitioner objects that this Petition is timely filed and that he should receive a  
9 stay of his Petition. (Dkt. No. 28 at 5.) This objection is not responsive to the  
10 Report, which did not resolve the Petition on timeliness or exhaustion grounds.  
11 Because Petitioner's claims are not cognizable on federal habeas review, the Court  
12 need not address alternative grounds for dismissal. (Dkt. No. 24 at 4 n.4.)

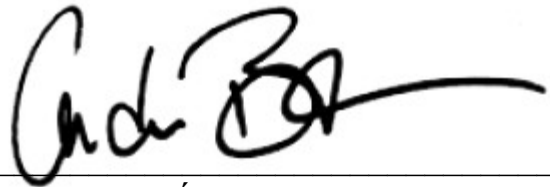
13 The Court approves and accepts the Report and Recommendation.

14 IT IS HEREBY ORDERED that the Motion to Dismiss is granted, the  
15 Motion for Stay is denied, and the Petition and this action are dismissed.

16 IT IS FURTHER ORDERED that the Clerk serve copies of this Order, the  
17 Report and Recommendation, and the Judgment herein on Petitioner and counsel  
18 for Respondent.

19 LET JUDGMENT BE ENTERED ACCORDINGLY.

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21 DATED: July 11, 2025



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24 HON. ANDRÉ BIROTTE, JR.  
25 UNITED STATES DISTRICT JUDGE  
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